

**IN THE HIGH COURT OF FIJI AT SUVA
CRIMINAL JURISDICTION**

Criminal Case Number: HAC 367 of 2022

STATE

-v-

JOSAIA QETEQETELEVU

Prosecution: Ms. Ali, Naazish
Accused: Ms. Singh, Manisha of Legal Aid Commission
Mitigation and Sentencing Submission: 15th and 18th January, 2025
Date of Sentence: 31st July, 2025

SENTENCE

INTRODUCTION

1. **JOSAIA QETEQETELEVU**, you are here to be sentenced after pleading guilty on your own accord to the following offence.

COUNT TEN

Statement of Offence

THEFT: Contrary to **Section 291 (1)** read with **section 293 (1)** of the *Crimes Act 2009*.

Particulars of Offence

JOSAIA QETEQETELEVU between the 17th and 18th day of October, 2022 at Nakasi in the Central Division, dishonestly appropriated (stole), 5x packets pounded grog, 6x 1kg Bravo Choice Raw sugar, 10x 1kg FMF Yellow Split Peas, 12x 2kg FMF Normal flour, 17 x 375 grams FMF Breakfast Crackers, 3x 250 grams FMF Scotch finger biscuits, 2x 375 grams Webster's Fine fare Breakfast Crackers biscuits, 7 x 123.5 grams Oreo (Original) biscuits, 4x 123.5 grams Oreo Chocolate biscuits, 6x 425 grams Chow Chicken noodles, 3x 400 grams Maggi Chicken noodles, 6x 450 grams Rewa powdered milk, 5x 200 grams Five Star Creamy Peanut Butter, 3x 200 grams Five Star Crunchy Peanut Butter, 3 x 150 grams Peanut man salted peanuts, 40 x 25 grams Orange flavoured Tang juice, 13 x 10 grams assorted Marimas juice, 3 x 14 grams P.K Chewing Gums, 3x 14

grams Eclipse Spearmint Ice Gum, 6 x 14 grams Peppermint Gum, 18 x small packets P.K Chewing Gums, 2x 375 grams Weetabix biscuits, 1 x packet Clothes pegs (50s), 1x card MR BON Super glue, 4x purple medium Colgate toothbrush and 1 x Blue medium Colgate toothbrush, the property of PRASAD'S FRIENDLY ENTERPRISE, with the intention of permanently depriving PRASAD'S FRIENDLY ENTERPRISE, of the said property.

COUNT ELEVEN

Statement of Offence

THEFT: Contrary to **Section 291 (1)** read with **section 293 (1)** of the *Crimes Act 2009*.

Particulars of Offence

JOSAIA QETEQETELEVU between the 17th and 18th day of October, 2022 at Nakasi in the Central Division, dishonestly appropriated (stole), 1x black & red Bluetooth radio, 3x radio speakers, 1x radio remote, and assorted clothes, the property of SULTAN TRADERS PTE LIMITED, with the intention of permanently depriving SULTAN TRADERS PTE LIMITED, of the said property.

COUNT TWELVE

Statement of Offence

THEFT: Contrary to **Section 291 (1)** read with **section 293 (1)** of the *Crimes Act 2009*.

Particulars of Offence

JOSAIA QETEQETELEVU between the 17th and 18th day of October, 2022 at Nakasi in the Central Division, dishonestly appropriated (stole), 1x Energy Smart rice cooker, 1x steel pot, 1x ANKO Deep fryer, 1x Cutter Knife set, 1x pair red boxing gloves, 1x pair black boxing gloves, 1x skipping rope, 1x black waist belt, 1x pulling spring, 1x burner gas stove, 1x yellow gas hose pipe with red regulator and 1x 4.5kg Blue gas cylinder, the property of ZOOM FITNESS CENTRE AND RESTAURANT, with the intention of permanently depriving ZOOM FITNESS CENTRE AND RESTAURANT, of the said property.

SUMMARY OF FACTS

2. Brief Background

PW1: Ravneel Prasad, 30 years old, School Teacher of 23 Dravia Place, Makoi, Nasinu. He is the owner of the Prasad's Friendly Enterprise situated at Lot 3 Wainibuku Road, Nakasi. (Complainant on Count 1 & 2).

PW2: Riffat Mehamood Bhatti, 58 years old, owner of Sultan Traders PTE Limited situated at Lot 2 Kings Road, Nakasi. (Complainant on Count 3 & 4).

PW4: Sajendra Prasad, 43 years old, owner of Zoom Fitness Center and Restaurant situated at Lot 2, Kings Road, Nakasi. (Complainant on Count 7&8).

Accused [A2]: The Accused Josaia Qeteqetelevu was born 14 January 1970. At the time of the offence, he was 55 years old. Accused was a Farmer at the time of offence.

Relationship: There is no relationship between the Complainants and the Accused person in this matter.

3. **Facts**

The accused person has voluntarily pleaded guilty to three (3) counts of Theft; contrary to section 291 (1) read with section 293(1) of the Crimes Act 2009.

Between 17th October and 18th October, 2022, the Accused had dishonestly appropriated a number of items which were stolen from numerous shops in Nakasi. The Accused had stolen, 5x packets pounded grog, 6x 1 kg Bravo Choice Raw sugar, 10 x 1kg FMF Yellow Split Peas, 12x 2kg FMF Normal flour, 17 x 375 grams FMF Breakfast Crackers, 3x 250 grams FMF Scotch finger biscuits, 2x 375 grams Webster's Fine fare Breakfast Crackers biscuits, 7 x 123.5 grams Oreo (Original) biscuits, 4x 123.5 grams Oreo Chocolate biscuits, 6x 425 grams Chow Chicken noodles, 3x 400 grams Maggi Chicken noodles, 6x 450 grams Rewa powdered milk, 5x 200 grams Five Star Creamy Peanut Butter, 3x 200 grams Five Star Crunchy Peanut Butter, 3 x 150 grams Peanut man salted peanuts, 40 x 25 grams Orange flavoured Tang juice, 13 x 10 grams assorted Marimas juice, 3 x 14 grams P.K Chewing Gums, 3x 14 grams Eclipse Spearmint Ice Gum, 6 x 14 grams Peppermint Gum, 18 x small packets P.K Chewing Gums, 2x 375 grams Weetabix biscuits, 1 x packet Clothes pegs (50s), 1x card MR BON Super glue, 4 x purple medium Colgate toothbrush and 1x blue medium Colgate toothbrush, the property of Prasad's Friendly Enterprise, with the intention of permanently depriving Prasad's Friendly Enterprise, of the said property.

On the same dates 17th and 18th October, 2022, the Accused had dishonestly appropriated (stole), 1 x black & red Bluetooth radio, 3x radio speakers, 1 x radio remote, and assorted clothes, the property of Sultan Traders Pte Limited, with the intention of permanently depriving Sultan Traders Pte Limited, of the said property.

Between the abovementioned dates 17th and 18th October, 2022, the Accused had also stolen, 1x Energy Smart rice cooker, 1x steel pot, 1 x ANKO Deep fryer, 1 x Cutter Knife set, 1x pair red boxing gloves, 1x pair black boxing gloves, 1x skipping rope, 1 x black waist belt, 1x pulling spring, 1x burner gas stove, 1x yellow gas hose pipe with red regulator and 1x 4.5kg Blue gas cylinder, the property of Zoom Fitness Centre And Restaurant, with the intention of permanently depriving Zoom Fitness Centre And Restaurant, of the said property.

The accused took possession of abovementioned stolen items and kept it inside a vacant house in Wainunu Settlement, Wainibuku Nakasi which was under his care. The accused was the Caretaker of this vacant house in Wainunu Settlement, Nakasi.

At the time the accused took possession of abovementioned stolen items, he had assumed the rights as the owner of the properties, by keeping it, without the authority and consent of the rightful owner of those properties.

The matter was reported to the Police by the Complainants (owner of the shops). An investigation was carried out. The Accused was later arrested on 18th October, 2022, from the vacant house in which the above-mentioned stolen items were recovered.

The abovementioned stolen items were fully recovered during the Police investigation. (Attached and marked "1" is the search list and "2" is the photographic booklet).

The Accused was interviewed under caution by Police at Nakasi Police Station on the 19th October, 2022. The Accused admitted that the vacant house in which the stolen items were recovered from was under his care as he was looking after the said vacant house in Wainunu Settlement, Nakasi at the material time. [Q & A 40].

Consequently, the Accused was charged with three counts of Theft; contrary to section 291 (1) read with section 293(1) of the Crimes Act 2009.

Conviction

4. The Court is aware that the Accused understands the implication of his plea and finds him guilty accordingly. The Accused is convicted of three counts of Theft pursuant to **section 291(1)** of the *Crimes Act, 2009*.

Sentencing Guidelines

5. Before sentencing the Accused, this court has considered the sentencing guidelines pursuant to **sections 4(1), 4(2) and 15** of the **Sentencing and Penalties Act, 2009**.

Maximum Penalty and Tariff

6. For the offence of theft the maximum penalty is 10 years imprisonment. The tariff for the offence of theft is settled. In **Mikaele Ratusili v. State**, *Criminal Appeal no. HAA 011 of 2012 (1 August, 2012)* Madigan J. set out the tariff for theft as follows:

“(i) *For the first offence of simple theft the sentencing range should be between 2 and 9 months.*

(ii) *any subsequent offence should attract a penalty of at least 9 months.*

(iii) *Theft of large sums of money and thefts in breach of trust, whether first offence or not can attract sentences of up to three years.*

(iv) regard should be had to the nature of the relationship between offender and victim.

(v) *planned thefts will attract greater sentences than opportunistic thefts.*”

Starting Point

7. In considering the tariff and the circumstances of the offence, I select 06 months as the starting point.

Aggravating Factors

8. The only aggravating factor was that you should have enquired from your co-Accused as to the contents of the sacks. It is his duty to do so because you are the caretaker of the said property.

9. I increase 03 months for this factor and arrive at 09 months imprisonment.

Mitigating Factors

10. You have a steady employment as a head baker.

11. You are now 55 years old and this is your first offence. I note that you have been a person with a good character for many decades.

12. Considering the above factors, I reduce your sentence by 02 months and arrive at 07 months imprisonment.

Guilty Plea

13. You pleaded guilty on the date of trial. I will give you a discount of 01 month and your final sentence is 06 months imprisonment.

Sentence

14. **Josaia Qeteqetelevu**, you are sentenced to 06 months imprisonment for Count 10 – Theft.

15. I repeat the same process for Counts 11 and 12.

Summary of Sentence

16. Your sentence is as follows;

Count 10 – Theft - 06 months imprisonment

Count 11 - Theft - 06 months imprisonment
Count 12 - Theft - 06 months imprisonment.

17. All the above terms are to be served concurrently to each other.

Time in Custody


18. The State informs the Court that you were arrested and kept in custody from 18th October, 2022 and granted bail on 15th June, 2023, a total of 08 months.

19. **Section 24** of the *Sentencing and Penalties Act, 2009* requires a Court to deduct time in custody.

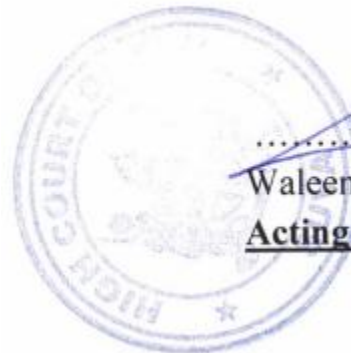
20. In considering the time you have been in custody, it is deemed that you have served your sentence of 06 months imprisonment.

Appeal Period

21. 30 days to appeal to the Fiji Court of Appeal.



Waleen M George
Acting Puisne Judge



Dated at Suva this 31st day of July 2025

**Solicitors: Office of the Director of Public Prosecution for State
Legal Aid Commission for the Accused**